

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 415**

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**Introduced by Assembly Member Garcia**

February 15, 2013

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An act to add Section 2120 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL’S DIGEST

AB 415, as amended, Garcia. Public utilities: Public Utilities Act: violation: defense.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities and can establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. The Public Utilities Act regulates specified public utilities. A violation of the Public Utilities Act or an order, decision, rule, direction, demand, or requirement of the commission is a crime.

This bill would ~~establish~~ *provide that evidence of a reasonable good faith reliance defense, as specified, to upon advice directly provided by the commission staff is to be considered by the commission only for the purposes of determining the appropriate penalty to impose in an enforcement action by the commission pursuant to the act or an order, decision, rule, direction, demand, or requirement of the commission.* ~~The bill would prohibit the commission from commencing or maintaining an adjudication or other enforcement action or proceeding against an entity if that entity has relied, in good faith, on the advice or direction of the staff of the commission. The bill would provide that~~

~~this defense does not apply to an action alleging a violation of the act that led, or could have directly led, to harm of humans.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2120 is added to the Public Utilities Code,  
2 to read:

3 2120. (a) ~~A~~*Evidence of a* reasonable good faith reliance upon  
4 ~~the direction and the advice of directly provided by~~ commission  
5 ~~staff is a defense to~~ *shall be considered by the commission only*  
6 *for the purposes of determining the appropriate penalty to be*  
7 *imposed in an enforcement action brought by the commission*  
8 *pursuant to this part or pursuant to an order, decision, rule,*  
9 *direction, demand, or requirement of the commission.*

10 ~~(b) The commission shall not commence or maintain an~~  
11 ~~adjudication or other enforcement action or proceeding against a~~  
12 ~~public utility, or other person or corporation over which the~~  
13 ~~commission has or claims authority or jurisdiction, to fine, hold~~  
14 ~~in contempt, or otherwise punish or issue an order against the~~  
15 ~~public utility, or other person or corporation for a violation of this~~  
16 ~~part, or a rule or order adopted by the commission pursuant to this~~  
17 ~~part, if the public utility, or other person or corporation that has~~  
18 ~~relied, in good faith, on the advice or direction of staff of the~~  
19 ~~commission to whom the public utility, or other person or~~  
20 ~~corporation was directed, in writing, to consult on behalf of the~~  
21 ~~commission.~~

22 (e)

23 (b) For the purpose of this section, “reasonable good faith  
24 reliance” means a reasonable belief that the action of an entity,  
25 acting on the direction and advice of the staff of the commission,  
26 is legal and consistent with the direction and advice provided.

27 ~~(d) This section does not apply to an enforcement action that is~~  
28 ~~directly related to an action alleging a violation that led, or could~~  
29 ~~have directly led, to harm of humans.~~

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